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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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Sergey Popov

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EXAMINER

HOLLOWAY, IAN KNOBEL

ART UNIT

PAPER NUMBER

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PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/579,534	Applicant(s) POPOV, SERGEY	
	Examiner IAN K. HOLLOWAY	Art Unit 3763	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 25 January 2010.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 67-74 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 67-74 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on _____ is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Response to Amendment

Receipt is acknowledged of applicant's amendment filed. Claims 1-66 have been canceled without prejudice. Claims 67-74 are pending and an action on the merits is as follows.

Applicant's arguments with respect to claims 67-74 have been considered but are moot in view of the new ground(s) of rejection.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

4. Claims 67-74 are rejected under 35 U.S.C. 103(a) as being unpatentable over Cuppy (US patent 5755709), herein after referred to as C, in view of Cuppy (US pg Pub 2004/0181192), herein after referred to as D.

Regarding **Claim 67**, **C** discloses a catheter (**30**) having a catheter hub (**40**, the rear of the catheter) and an axial through channel with a proximal end portion a needle assembly including a needle (**18**, needle) with a distal sharp point, which extends through said catheter channel, and a safety means (**Fig. 15**, the needle has been withdrawn into the safety cover) having a protector for protecting said needle distal sharp point after introducing said catheter into a blood vessel, wherein said needle assembly is in a protected position when said needle is protected by said protector, wherein in said protected position said needle assembly has a distal end and a proximal end

C fails to disclose the cap and the use of a luer lock

However, **D** teaches a luer lock (**Fig 2**) catheter cap (**100**, attachable to the catheter) having a tapered male luer member (**100**) with a tapered end for occluding a proximal opening of said catheter after the transposition of said needle to said protected position, said catheter cap being detachably mounted on said needle assembly; and mounting means for detachable mounting of said catheter cap on said needle assembly, (**90**) wherein said mounting means includes stabilizing means(**Fig. 2**, once the cap is completely screwed on, it can no longer be moved axially) that prevents rotation of said tapered male luer member with respect to said needle assembly when mounting said catheter cap onto said catheter, and wherein when said needle assembly is in said protected position said catheter cap is positioned at either of said ends of said needle assembly, and said tapered end of said tapered male luer member is directed proximally when said catheter cap is positioned at said proximal end of said needle

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assembly and distally when said catheter cap is positioned at said distal end of said needle assembly.

It would have been obvious to one of ordinary skill in the art at the time of the invention was made to use the construction as taught by **D**, since **D** states at paragraph 7 that such modification would reduce exposure to blood. Thus, it would have been obvious to one of ordinary skill in the art to apply the construction as taught in **D**, to improve the device of **C** for the predictable result of making it safer to use.

The combination fails to disclose that the catheter cap is detachable.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to make the cap detachable, since it has been held that constructing a formerly integral structure in various elements involves only routine skill in the art. *Nerwin v. Erlichman*, 168 USPQ 177, 179.

Regarding **Claim 68**, **D** discloses has first and second mounting elements **(90 and 100)** one of which is disposed on said needle assembly and the other on said catheter cap, wherein said stabilizing means is made as at least one slot **(100, threading)** and at least one projection, **(90)** one of which slot and projection is located on said first mounting element and the other of which slot and projection is located on said second mounting element wherein said projection slidably enters said slot

Regarding **Claim 69**, **D** discloses catheter cap is detachably retained on said needle assembly by friction between said first and second mounting elements. **(Fig. 2)**

Regarding **Claim 70**, **D** discloses shielding means **(16)** preventing said tapered luer member from accidental contact with an operator, wherein said shielding means is

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made as a shielding wall enclosing said tapered male luer member and protruding beyond said tapered end

Regarding **Claim 71, D** discloses catheter cap is disposed on said protector.

(Fig. 2)

Regarding **Claim 72, D** discloses a hub, **(Fig. 2)** and wherein said catheter cap is disposed on said hub.

Regarding **Claim 73, D** discloses one of said mounting elements is disposed on said needle assembly and forms a receptacle in which said catheter cap is housed and wherein said receptacle acts as said shielding means. **(Fig. 2)**

Regarding **Claim 74, D** discloses a thread for fixing said catheter cap onto said catheter. **(100, threading)**

Applicant's arguments filed have been fully considered but they are not persuasive.

Response to Arguments

Applicant states, the combination fails to teach that the catheter cap is detachable as claimed in applicant's application. However, as seen from the rejection above the modification of making an element separable is a well known alteration found in the art. The rejection is maintained on the grounds seen above.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to IAN K. HOLLOWAY whose telephone number is (571)270-3862. The examiner can normally be reached on 8-5, Monday-Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nicholas D. Lucchesi can be reached on 571-272-4977. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Ian K Holloway/
Examiner, Art Unit 3763

/Nicholas D Lucchesi/
Supervisory Patent Examiner, Art Unit 3763